

Amendment No. 1 to HJR0348

**DeBerry L
Signature of Sponsor**

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Date _____
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Clerk _____
Comm. Amdt. _____

AMEND <SB>

House Joint Resolution No. 348*

by deleting all sections of the introduced house joint resolution after the enacting clause and by substituting instead the following:

WHEREAS, the juvenile justice system is to provide for the care, protection and wholesome moral, mental and physical development of children coming within its jurisdiction in a family environment whenever possible, protect the public interest and provide for community safety, and to assure fair hearings and uniform application of laws across the state; and

WHEREAS, in response to HJR 890 in 2004, the Select Committee on Children and Youth and the Tennessee Commission on Children and Youth and its Disproportionate Minority Contact/Confinement (DMC) Task Force conducted a preliminary investigation and made some recommendations regarding strategies to address the disproportionate involvement of minority children in the juvenile justice system, including the need for continued study and strategy development; and

WHEREAS, in 2003, 21% of the State's 12-17 year-old population was comprised of African-Americans; however, African-Americans accounted for 33% of the youth referred to juvenile court and 63% of the youth held in Tennessee's secure detention centers throughout that year; and

WHEREAS, in fiscal year 2003, African-American children accounted for 21% of the State's juvenile population, but 38% if the delinquent children committed to or in the custody of the Tennessee Department of Children's Services, and 47% of the population of the State's Youth Development Centers;

WHEREAS, for children referred to juvenile courts in Tennessee in 2003, Caucasian children were more than twice as likely to have their cases diverted as African-American children; and

WHEREAS, for children referred to juvenile courts in Tennessee in 2003, African-American children were almost three and a half times more likely to be placed in secure detention but only slightly less than one and a half times more likely to have their case result in delinquent findings; and

WHEREAS, for children referred to juvenile courts in Tennessee in 2003, African-American children were more than three and a half times more likely to be transferred to criminal court for trial as adult; and

WHEREAS, though data does not currently suggest overrepresentation of other minorities in the custody of the Department of Children's Services, the 2000 United States Census reported Tennessee children are 1% Asian and 2% Hispanic, and the Hispanic population in Tennessee has been increasing rapidly; and

WHEREAS, a March 2005 Pew Hispanic Center report indicates Tennessee has between 100,000 and 150,000 undocumented migrant persons living in the state, and nationally approximately 1 in 6 undocumented persons is a child, which would translate to between 16,666 and 25,000 undocumented children in Tennessee, and there are about 2 U.S. born children of undocumented migrants for every undocumented child, translating to between 33,300 and 50,000 U.S. born children of undocumented migrants in Tennessee; and the rapid growth of the foreign-born population in Tennessee is principally driven by undocumented migrants, mostly Hispanic; and

WHEREAS, children who experience school failure, suspension or expulsion, and other school problems are more likely to become involved in the juvenile justice system;

WHEREAS, the Comptroller's Office of Education Accountability's recent publication, Tennessee's Alternative Schools, reports that African-American students are overrepresented in the numbers of zero-tolerance offenders and students who are remanded, suspended, or expelled from their schools of zone, and that these findings are consistent with previous findings documented in the Office's 2003 report, Zero Tolerance in Tennessee Schools: an Update. Findings documented include a disproportional number of African-American students in alternative schools as compared

to their representation in the total student population of certain school systems; and disparity such that the statewide rate of suspension incidents in school year 2003-03 was 8.7%, yet was doubled that for African-American students at 19%, and in school year 2003-04 the same measures are 9.2% and 20.5%, respectively; and

WHEREAS, a 2003 report from the Civil Rights Project corroborates the Office of Education Accountability's concerns regarding over-representation of African-American students involved in school discipline issues with its findings that Tennessee has the sixth highest suspension rate in the nation at 9.1%, and that African-American students in Tennessee are 3.3 times as likely as their Caucasian peers to be suspended out of school, making the state eighth in the nation for the greatest racial disparity in school suspension rates; and

WHEREAS, information from the Annie E. Casey Foundation's Juvenile Detention Alternatives Initiative indicates children placed in detention are more likely to be formally prosecuted, adjudicated and committed, and that prior detention/incarceration is a stronger predictor of recidivism than gang membership, poor parental relations, prior offense history, etc; and

WHEREAS, information from the Annie E. Casey Foundation's Juvenile Detention Alternatives Initiative indicates detained youth have higher rates of health and mental health problems, and the rate of suicide for detained or incarcerated youth is four times greater than in the general youth population; and

WHEREAS, information from the Annie E. Casey Foundation's Juvenile Detention Alternatives Initiative indicates detention significantly decreases youth connection to school and increases drop-out odds, and formerly incarcerated youth work 3-5 weeks less a year than those never incarcerated, 15 years after their confinement, and the London School of economics reports "Having been in jail is the single most important deterrent to employment;" now, therefore,

BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES OF THE ONE HUNDRED FOURTH GENERAL ASSEMBLY OF THE STATE OF TENNESSEE, THE SENATE CONCURRING, that there is hereby created a special joint committee to study

issues pertaining to the overrepresentation of minorities in confinement within Tennessee's juvenile justice system and to determine and recommend appropriate legislative, administrative and judicial actions to address and remedy such overrepresentation.

BE IT FURTHER RESOLVED, that the special joint committee shall be independent of all existing special, select and joint committees of the General Assembly.

BE IT FURTHER RESOLVED, that the special joint committee shall consist of 5 members of the House of Representatives and 5 members of the Senate, to be appointed by the respective speakers.

BE IT FURTHER RESOLVED, that the special joint committee shall also consist of the following persons to be appointed by the governor: 1 representative of the council of juvenile and family court judges; 1 representative of the district attorneys general conference; 1 representative of law enforcement; and the special joint committee shall also consist of 3 members appointed by the Speaker of the House and 3 members appointed by the Lieutenant Governor with these members to include persons with special expertise in issues contributing to the overrepresentation of minorities in the juvenile justice system, such as mental health services, substance abuse treatment, local education, the legal community, or individuals currently or previously incarcerated as a juvenile or their parents. The members of the special joint committee appointed by the Governor, Speaker of the House and Lieutenant Governor, in as much as possible, shall be appointed in such a manner as to equitably represent the three geographic Grand Divisions of the State of Tennessee and with appropriate consideration to gender and ethnic/cultural diversity. Should any appointed member cease to serve on the special joint committee, he/she shall be replaced by the original appointing authority.

BE IT FURTHER RESOLVED, that the commissioner or designee of the Departments of Children's Services, Correction, Education, Health, Mental Health and Developmental Disabilities, and the executive director or designee of the Board of Probation and Parole and the Tennessee Commission of Children and Youth shall serve as ex-officio advisors to the special joint committee, meet with the special joint

committee, and provide assistance to the special joint committee upon request of the chair. Costs associated with participation of the state departmental advisors shall be absorbed by the individual department or agency budgets.

BE IT FURTHER RESOLVED, that each legislative member of the special joint committee who is a duly elected member of the General Assembly shall remain a member of such special joint committee until the committee reports its findings and recommendations to the General Assembly, provided that such member continues to serve as a member of the General Assembly, but if any legislative member ceases to serve in the General Assembly or resigns from the special joint committee, he/she shall be replaced by the appointing speaker.

BE IT FURTHER RESOLVED, that the members of the special joint committee who are members of the General Assembly shall be compensated or reimbursed for expenses according to the requirements of Tennessee Code Annotated, Title 3, Chapter 1. All reimbursement for travel expenses for members of the special joint committee who are not members of the General Assembly shall be in accordance with the provisions of the comprehensive travel regulations as promulgated by the department of finance and administration and approved by the attorney general.

BE IT FURTHER RESOLVED, that the special joint committee shall be convened by the member with the most years of continuous service in the General Assembly, and at its first meeting shall elect a chair, who shall be a member of the General Assembly, vice chair, and such other officers as the committee deems necessary.

BE IT FURTHER RESOLVED, that the special joint committee shall have the authority to request staffing assistance from existing offices within the General Assembly, research assistance from the Comptroller's Office, and establish contracts for needed consultant services to assist the special joint committee in its work.

BE IT FURTHER RESOLVED, that the special joint committee shall timely report its interim findings and recommendations, including any proposed legislation, no later than January 31 of each year, and its final findings and recommendations, including any

proposed legislation, to the One Hundred Fifth General Assembly no later than January 31, 2008, at which time the committee shall cease to exist.